

1 IN THE UNITED STATES DISTRICT COURT  
2 FOR THE NORTHERN DISTRICT OF CALIFORNIA  
3

4 ADE A. HAMZA; and MORENIKE HAMZA,

No. C 12-1391 CW

5 Plaintiffs,

ORDER GRANTING  
PLAINTIFFS  
ADDITIONAL TIME TO  
RESPOND TO  
DEFENDANTS' MOTION  
TO DISMISS,  
VACATING HEARING  
AND ADDRESSING  
PROOF OF SERVICE

6 v.

7 U.S. BANK NATIONAL ASSOCIATION;  
8 TERRY J. MOLLICA; NANCY L.  
9 DOUGLAS; EUGENE J. CHIARELLI;  
10 CHIARELLI & MOLLICA, LLP;  
11 HOMEWORLD RESIDENTIAL, INC.; DAVID  
12 MARQUEZ; A.H.M.S., INC.; MATTHEW  
13 A. ENGEL; PREMIER TRUST DEED  
14 SERVICES, INC.; SAND CANYON  
CORPORATION, formerly known as  
OPTION ONE MORTGAGE CORPORATION;  
TANYA HOPKINS; DAVID M.  
APPELGETATE; HOMEOWNERS FIRST, LLC;  
JOHN G. STUMPF; WELLS FARGO BANK,  
N.A.; JOSEPH C. GALLAGHER; STEVEN  
G. ROGERS; and LARRY MATNEY,

15 Defendants.

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17 On February 22, 2012, Plaintiffs Moreniike and Ade A. Hamza  
18 initiated this action in the Alameda County Superior Court.

19 On March 20, 2012, Defendant Chiarelli & Mollica LLP, joined  
20 by Defendants Terry J. Mollica, Eugene J. Chiarelli and Nancy L.  
21 Douglas, removed the case to federal court.

22 On May 31, 2012, Defendants Sand Canyon Corporation, formerly  
23 known as Option One Mortgage Corporation, Dale Sugimoto, and  
24 Matthew Engel filed a motion to dismiss the complaint.

25 On June 20, 2012, the Court granted Plaintiffs one additional  
26 week in which to file their response to Sand Canyon, Sugimoto and  
27 Engel's motion to dismiss. At that time, the Court warned  
28 Plaintiffs that failure to file a response would result in the

1 dismissal of their claims against those Defendants for failure to  
2 prosecute.

3 On July 2, 2012, having received no opposition to the motion  
4 to dismiss, the Court dismissed Plaintiffs' claims against Sand  
5 Canyon, Sugimoto and Engel.

6 Currently before the Court is a second motion to dismiss  
7 filed by Defendants Terry Mollica, Eugene Chiarelli, Nancy L.  
8 Douglas and Chiarelli and Mollica LLP, which was filed on June 20,  
9 2012. Civil Local Rule 7-3(a) provides that any opposition to a  
10 motion must be filed within fourteen days after the motion was  
11 filed if the motion was filed and served through the Court's  
12 Electronic Case Filing (ECF) system, or within seventeen days  
13 after the motion was filed if the motion was served through other  
14 means, including by mailing it to the person's last known address.  
15 Because the second motion to dismiss was filed by mailing,  
16 Plaintiffs' opposition was due by July 7, 2012. However, because  
17 July 7, 2012 was a Saturday, the time for Plaintiffs to file their  
18 opposition was extended to Monday, July 9, 2012, pursuant to  
19 Federal Rule of Civil Procedure 6(a)(1)(C).

20 Plaintiffs have not yet filed a response to the second motion  
21 to dismiss. The Court grants Plaintiffs until one week from the  
22 date of this Order to do so. Plaintiffs' failure to file a  
23 response in compliance with this Order will result in the  
24 dismissal of their claims against Mollica, Chiarelli, Douglas and  
25 Chiarelli and Mollica LLP for failure to prosecute. The Court  
26 will decide the motion to dismiss on the papers. The hearing  
27 currently set for August 2, 2012 is vacated.

1       Further, the Court warns Plaintiffs that, in the future, they  
2 must adhere to the time limits explained above and otherwise set  
3 forth in the Federal Rules of Civil Procedure and Civil Local  
4 Rules, and that the Court will not extend the filing deadline for  
5 an opposition again, absent a showing of good cause for failure to  
6 meet the relevant deadline.

7       On June 20, 2012, the Court noted that it did not appear from  
8 the docket that Plaintiffs have served Defendants U.S. Bank  
9 National Association, Homeward Residential, Inc., David Marquez,  
10 A.H.M.S. Inc., Premier Trust Deed Services, Inc., Tanya Hopkins,  
11 David Appelgate, Homeowners First, LLC, John G. Stumpf, Wells  
12 Fargo Bank, N.A., Joseph C. Gallagher, Steven G. Rogers and Larry  
13 Matney. At that time, the Court cautioned that Plaintiffs must  
14 serve the remaining Defendants by July 18, 2012 and ordered  
15 Plaintiffs to file proof of timely service by July 20, 2012. The  
16 Court notes that Plaintiffs have not yet filed proof of service  
17 upon these Defendants, and reminds Plaintiffs that they must file  
18 proof of timely service upon these Defendants by July 20, 2012 and  
19 that failure to do so will result in the dismissal of their claims  
20 against these Defendants for failure to prosecute.

21       IT IS SO ORDERED.

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23 Dated: 7/12/2012

  
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CLAUDIA WILKEN  
United States District Judge

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